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5 UNITED STATES DISTRICT COURT  
6 EASTERN DISTRICT OF WASHINGTON

7 JOHN THOMAS ENTLER,  
8 Plaintiff,

9 v.

10 CHRISTINE GREGOIRE, BERNIE  
11 WARNER, STEVEN SINCLAIR,  
12 RON KNIGHT, LYNN/IRISH  
CLARK and MR. PIERCE,

13 Defendants.

NO. 2:12-CV-5141-TOR

ORDER STRIKING THIRD  
AMENDED COMPLAINT;  
GRANTING MOTION FOR  
EXTENSION

14 BEFORE THE COURT is Defendants' Motion to Vacate the Court's Order  
15 Granting Leave to Amend (ECF No. 135), Motion for Extension of Time to File  
16 Answer (ECF No. 136) and Plaintiff's (construed) Motion to Amend (ECF No.  
17 134). The Motions were submitted for consideration without oral argument.  
18 Plaintiff opposes the Motion to Vacate. ECF No. 137. The Court has reviewed the  
19 record, the completed briefing and is fully informed.

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ORDER STRIKING THIRD AMENDED COMPLAINT;  
GRANTING MOTION FOR EXTENSION ~ 1

1 Defendants request the Court vacate or amend its previous order allowing  
2 Mr. Entler to file a Third Amended Complaint, complaining that Plaintiff's Third  
3 Amended Complaint introduces new claims against new defendants that go far  
4 beyond the Court's Order allowing Plaintiff to file his Second Amended  
5 Complaint. ECF No. 135.

6 The Court first allowed Plaintiff to amend his Complaint to address the  
7 issues raised by Defendants on remand from the Ninth Circuit. The Court struck  
8 Plaintiff's First Amended Complaint for failure to comply with the Court's order  
9 because it was "not limited to the issues the Ninth Circuit remanded to this Court  
10 for resolution, nor is it limited to addressing the Defendants' lack of personal  
11 participation allegations." ECF No. 128 at 6. The Court granted leave to file a  
12 Second Amended Complaint, but the Court specifically stated that "[t]he Second  
13 Amended Complaint must be limited to the issues the Ninth Circuit remanded to  
14 this Court for resolution[.]" ECF Nos. 128 at 7; 132 at 3. The Court did not grant  
15 Plaintiff's request to submit a Third Amended Complaint. ECF No. 132. The  
16 Court did, however, allow Plaintiff to file a motion to amend by February 1, 2019.  
17 *Id.* at 2. Plaintiff acknowledges that he was allowed to file a motion to amend and  
18 add parties, and instead of filing a motion, he filed a Third Amended Complaint.  
19 ECF No. 137 at 4, n.2. Plaintiff insists that it is clear he had the intent to file a  
20 motion and that the Court should construe his Third Amended Complaint as a

1 motion to amend to add additional parties. *Id.* The Court will **deny** the construed  
2 motion to amend because the proposed Third Amended Complaint introduces  
3 issues well beyond the scope of that allowed in the previous amendments—the  
4 Court need not vacate or amend its previous Order.

5 Defendants also request the Court stay their deadline for filing an answer  
6 and extend any other deadlines as necessary until this issue is resolved. ECF No.  
7 136. Having decided the issue, the Motion to Extend (ECF No. 136) is **granted**.  
8 The time period for answering the Second Amended Complaint or otherwise  
9 pleading begins on the date of this Order.


10 **ACCORDINGLY, IT IS HEREBY ORDERED:**

- 11 1. Defendants' Motion to Vacate (ECF No. 135) is **DENIED**.  
12 2. Plaintiff's Third Amended Complaint (ECF No. 134), construed as a  
13 motion to amend, is **DENIED** and the Third Amended Complaint is  
14 **STRICKEN**.  
15 3. Defendants' Motion to Extend (ECF No. 136) is **GRANTED**.

16 The District Court Executive is directed to enter this Order and furnish  
17 copies to the parties.

18 **DATED** March 5, 2019.



  
THOMAS O. RICE  
Chief United States District Judge